

## MEMORANDUM OF LAW

DATE: November 2, 1993

TO: Charles G. Abdelnour, City Clerk

FROM: City Attorney

SUBJECT: Does Candidate's Payment of Postage on Absentee  
Ballot Applications Violate State Law?

In a memorandum dated February 1, 1993, you ask whether a candidate's payment of postage for voters' absentee ballot applications violate California Elections Code section 29622.

The relevant portion reads:

A person shall not, directly  
or through any other person pay,  
lend, or contribute, or offer or  
promise to pay, lend, or contribute,  
any money or other valuable  
consideration to or for any voter or  
to or for any other person to:

(a) Induce the voter to:

....

(2) Vote . . . at an  
election for any particular person or  
measure.

....

You essentially ask whether the notation on the back of the application "postage will be paid by addressee" F

The addressee is listed as the "Vote by Mail Center," whose address was the same as the address of a City Council candidate's controlled committee.

constitutes an

offer of payment of valuable consideration to induce a voter to vote for a particular candidate.

Although I find that the offer to pay postage on the absentee ballot application indeed constitutes valuable (although trifling - i.e., the cost of a 29 cent stamp) consideration, in my opinion there are insufficient facts present to show whether this constituted an inducement for a voter to vote for a particular candidate or measure. The facts provided show only an

inducement to vote, at most, not an inducement to vote for a particular candidate or measure. Therefore, I find no violation of state law,F

Although you did not raise the question, the facts presented raise an issue under federal election law, because the offer to pay postage on an absentee ballot application could be treated as an offer to pay someone to vote in violation of 42 U.S.C. ' 1973(i)(c).

on the facts provided.

As a remedial measure, however, I recommend that the City Clerk add a cautionary vote to future candidates' information packets alerting candidates and their treasurers to this statute.

JOHN W. WITT, City Attorney

By

Cristie C. McGuire

Deputy City Attorney

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